

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Patent Application of: Guy J. Rackham

Group Art Unit: 3623 : IBM Corporation
Examiner: Nadja N. Chong Cruz : Intellectual Property Law
Serial No.: 10/796,367 : Department SHCB/040-3
Filed: 03/09/2004 : 1701 North Street
Confirmation No.: 2245 : Endicott, NY 13760
Title: SERVICES COMPONENT :
BUSINESS OPERATION
METHOD

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

Dear Sir:

Appellant respectfully replies to Examiner's Answer dated
08/12/2009.

STATUS OF CLAIMS

Appellant agrees with the Examiner that claims 23-25 were previously cancelled. Appellant regrets this omission in the statement of Status of Claims in his Revised Appeal Brief dated 06/11/2009. The correct Status of Claims is:

Claims 1-21 and 23-25 were cancelled in Appellant's Amendment filed 09/30/2008.

Claim 22 is pending in the present application. Claim 22 has been finally rejected and is the subject of this appeal.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

There is only one ground of rejection. Claim 22 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Northcott (US 2003/0167198A1) in view of American Cybernetic Corporation - 2001 and further in view of the Lindsay-Scott (US 2004/0117234A1).

ARGUMENT

Appellant respectfully replies because the Examiner has raised a new argument regarding Appellant's claim 22 requirement to form a two dimensional heat map of selected components. Appellant's response in this Reply Brief, therefore, is addressed solely to this new argument. Appellant's other arguments of Examiner error in his Revised Appeal Brief dated 06/10/2009 remain before the board.

Examiner errs in this new argument (Examiner's Answer 08/12/2009, page 12, last paragraph) by incorrectly associating Appellant's selected components of a two dimensional heat map, with variables. Claim 22 has no variables. Appellant has not argued anything about variables. Appellant has argued (Revised Appeal Brief 06/11/2009, page 5, first paragraph) that Northcott describes selecting only a single target task. Appellant's two dimensional heat map of selected components in claim 22 must have at least three components, otherwise the map is obviously one dimensional. That is, if there are less than three selected components, e.g., two or one, the heat map of selected components will not be two dimensional because the selected components will lie on a line (one dimensional).

The Examiner appears to be arguing that a two dimensional map requires only two (not three) variables.

In point of fact, Northcott describes selecting only a single target task. Therefore even under the Examiner's argument of two variables, Northcott's single task cannot be

describing, or even suggesting, Appellant's two dimensional heat map of selected components.

Furthermore, claim 22 also indicates that a plurality of components must be selected through use of the plural recitation "components."

Finally, the selected components must collaborate in claim 22. Collaboration also requires that there be more than a single selected component.

The Examiner has therefore erred in stating that Northcott's selection of a single target task describes or suggests Appellant's claim 22 requirement of selecting components to form a two dimensional heat map, and additionally identifying collaborations to model how the selected components collaborate.

Respectfully submitted,

Dated: 10/09/2009 By: /John Pivnichny/

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